

AGENDA

DATE: MONDAY, JUNE 2, 2003
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE IS NO PUBLIC HEARING TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN RONALD MANG
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 81 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

105
AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from RM-1 Multiple Family Residential to O-1 Office, and declaring an emergency.

ORDINANCE NO. 82 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

105
AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from RM-1 Multiple Family Residential to O-1 Office, and declaring an emergency

ORDINANCE NO. 83 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

POD 9-0
AN ORDINANCE authorizing the Zoning Inspector of the City of Massillon, Ohio, to issue a conditional zoning certificate to Great Lakes Energy Partners, L.L.C., for a permit to drill a gas and oil well, which shall be known as the R.T.I. No. 2, located on the Republic Technologies International property on the west side of 16th Street S.E., south of Oak Avenue S.E., and declaring an emergency

ORDINANCE NO. 84 - 2003

BY: PARKS AND RECREATION COMMITTEE

POD 9-0
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract upon approval of the Board of Control, with Finkbeiner, Pettis & Strout, Inc. of Akron, to perform the final design of the Bike Path Relocation at the Wastewater Treatment Plant, and declaring an emergency.

ORDINANCE NO. 85 - 2003

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

POD 9-0
AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT of Ordinance No. 127 - 1997 by repealing Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT, and enacting a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT in the City of Massillon, Ohio, and declaring an emergency.

MONDAY, JUNE 2, 2003

ORDINANCE NO. 86 - 2003

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

105
AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract agreement with the AFSCME, Ohio Council 8, Local 996 that shall be in effect from April 1, 2003 through March 31, 2006, and declaring an emergency.

ORDINANCE NO. 87 - 2003

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Prop 9-2
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for the 2002 Target Neighborhood Street Program Improvements in the City of Massillon, and declaring an emergency.

ORDINANCE NO. 88 - 2003

BY: FINANCE COMMITTEE

Prop 9-2
AN ORDINANCE authorizing the issuance of not to exceed \$1,612,000.00 of taxable notes in anticipation of the issuance of bonds for the purpose of providing funds for acquiring land and interests in land and demolition relating thereto, for the purpose of urban redevelopment in connection with the Lincoln Center Phase III Project, and retiring notes previously issued for such purpose, and declaring an emergency.

ORDINANCE NO. 89 - 2003

BY: FINANCE COMMITTEE

Prop 9-2
AN ORDINANCE authorizing the issuance of not to exceed \$1,303,000.00 of tax-exempt notes in anticipation of the issuance of bonds for the purpose of providing funds for acquiring land and interests in land and demolition relating thereto, for the purpose of urban redevelopment in connection with the Lincoln Center Phase Phase III Project, and retiring notes previously issued for such purpose, and declaring an emergency.

ORDINANCE NO. 90 - 2003

BY: FINANCE COMMITTEE

Prop 7/2
AN ORDINANCE amending Ordinance No. 143 - 1976 by repealing Section 13 - "ALLOCATION OF FUNDS - INCOME TAX" and enacting a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" and repealing Ordinance No. 215 - 2002, and declaring an emergency.

ORDINANCE NO. 91 - 2003

BY: FINANCE COMMITTEE

Prop 9-2
AN ORDINANCE authorizing the processing of the documents for USEPA, for the City of Massillon, Ohio to receive \$900,000.00 Grant by Congress to assist with the Lincoln Centre III storm sewer rehab, and declaring an emergency.

ORDINANCE NO. 92 - 2003

BY: FINANCE COMMITTEE

F.
9/6
AN ORDINANCE making certain appropriations from the unappropriated balance of the State Highway M & R Fund, Wastewater Treatment BR Fund and the General Fund, for the year ending December 31, 2003, and declaring an emergency.

RESOLUTION NO. 18 - 2003

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

POD
7-0
A RESOLUTION designating Macmillan Place SE as the name for a certain alley located in the City of Massillon, Ohio, and described as an alley 23 feet wide running from Wellman Avenue SE to Wallace Avenue SE, and declaring an emergency.

- 7. UNFINISHED BUSINESS
- 8. PETITIONS AND GENERAL COMMUNICATIONS
- 9. BILLS, ACCOUNTS AND CLAIMS
- 10. REPORTS FROM CITY OFFICIALS

- A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR MAY 2003
- B). MAYOR SUBMITS MONTHLY REPORT FOR MAY 2003
- C). AUDITOR SUBMITS MONTHLY REPORT FOR MAY 2003
- D). INCOME TAX ADMINISTRATOR SUBMITS MONTHLY REPORT FOR MAY 2003

- 11. REPORTS OF COMMITTEES
- 12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER
- 13. CALL OF THE CALENDAR
- 14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 61 - 2003

BY: POLICE AND FIRE COMMITTEE

POD
7-0
AN ORDINANCE authorizing the Mayor, the Safety Service Director and the Police Chief to implement a new contract concerning housing of prisoners from other political subdivisions in the Massillon City Jail, and declaring an emergency.

- 15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 74 - 2003

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

POD
7-0
AN ORDINANCE authorizing the Mayor and the Director of Public Service & Safety to accept the CLASSIFIED AND UNCLASSIFIED EMPLOYEES AND SUPERVISORS (ACUE) contract effective April 1, 2003 through April 1, 2006, and declaring an emergency.

- 16. NEW AND MISCELLANEOUS BUSINESS
- 17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA
- 18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 81 - 2003

Filed 7/9
Filed and 7/21
off table 9/2

BY: COMMUNITY DEVELOPMENT COMMITTEE:

TITLE: AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from RM-1 Multiple Family Residential to O-1 Office, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

It is hereby determined to be in best interest and promotion of the general health, safety and convenience, comfort, prosperity and welfare of the community to change the designation of the area set forth in Section 2 hereof from RM-1 Multiple Family Residential and R-1 One Family Residential to O-1 Office. Said rezoning was approved by the Planning Commission of the City of Massillon, Ohio, on May 14th, 2003 and that notice and public hearing has been given according to law.

Section 2:

The City of Massillon, Ohio, Zone Map as identified by Section 1151.02 of the Massillon Code of 1985, be and is hereby amended to show the following described area as O-1 Office.

Part of Lots No. 3909 and 9320 (southern 100 feet) located at 628 Tremont Avenue SW. Lot No. 3910 and Part of Lots No. 3909 and 9320 (northern 10 feet). The property was purchase by Nelson Family Enterprises for the purpose of being used as offices. This is the former West Side Library.

Section 3:

This Ordinance is hereby declared to be an emergency measure in that the use herein provided for is essential to the proper community growth and hence immediately necessary for the reservation of the health, safety and welfare of the community and that this property would best be served to be designated O-1 Office. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

period allowed by law.

-2-

ORDINANCE NO. 81 - 2003

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 82 - 2003

Adopted 7/7
Defeated 7/21

BY: COMMUNITY DEVELOPMENT COMMITTEE:

TITLE: AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from RM-1 Multiple Family Residential to O-1 Office, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

It is hereby determined to be in best interest and promotion of the general health, safety and convenience, comfort, prosperity and welfare of the community to change the designation of the area set forth in Section 2 hereof from RM-1 Multiple Family Residential to O-1 Office. Said rezoning was approved by the Planning Commission of the City of Massillon, Ohio, on May 14th, 2003 and that notice and public hearing has been given according to law.

Section 2:

The City of Massillon, Ohio, Zone Map as identified by Section 1151.02 of the Massillon Code of 1985, be and is hereby amended to show the following described area as O-1 Office.

Part of Lots No. 3669, LOCATED AT 2551 Lincoln Way East is presently vacant and has been acquired by Edelgard Sperry. The property will be used as a real estate office by 2100 Realty Select.

Section 3:

This Ordinance is hereby declared to be an emergency measure in that the use herein provided for is essential to the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community and that this property would best be served to be designated O-1 Office. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed 7/7
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 83 - 2003

BY: COMMUNITY DEVELOPMENT & ANNEXATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Zoning Inspector of the City of Massillon, Ohio, to issue a conditional zoning certificate to Great Lakes Energy Partners, L.L.C., for a permit to drill a gas and oil well, which shall be known as the R.T.I. No. 2, located on the Republic Technologies International property on the west side of 16th Street S.E., south of Oak Avenue S.E., and declaring an emergency.

WHEREAS, pursuant to Chapter 741 of the Codified Ordinances of the City of Massillon, Great Lakes Energy Partners, L.L.C. has filed a request for a permit to drill a gas and oil well known as the R.T.I. No. 2, located on the Republic Technologies International property on the west side of 16th Street S.E., south of Oak Avenue S.E., and

WHEREAS, on May 14th, 2003 this request was approved by the City of Massillon Planning Commission for a permit to drill the gas and oil well.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines that Great Lakes Energy Partners, L.L.C. be granted a conditional zoning certificate to drill a gas and oil well, which shall be known as the R.T.I. No. 2, located on the Republic Technologies International property on the west side of 16th Street S.E., south of Oak Avenue S.E..

Section 2:

The Zoning Inspector shall issue a conditional zoning certificate to Great Lakes Energy Partners, L.L.C. to drill a gas and oil well, which shall be known as the R.T.I. No. 2, located on the Republic Technologies International property on the west side of 16th Street S.E., south of Oak Avenue S.E.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the community and such emergency arising out of the necessity to issue such conditional zoning permits for gas and oil well drilling within the City. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 84 - 2003

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract, upon approval of the Board of Control, with Finkbeiner, Pettis & Strout, Inc. of Akron, to perform the final design of the Bike Path Relocation at the Wastewater Treatment Plant, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to enter into a contract, upon approval of the Board of Control, with Finkbeiner, Pettis & Strout, Inc. of Akron, to perform the final design of the Bike Path Relocation at the Wastewater Treatment Plant..

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to enter into a contract upon approval by the Board of Control, with Finkbeiner, Pettis & Strout, Inc. of Akron, to perform the final design of the Bike Path Relocation at the Wastewater Treatment Plant. This is not to exceed \$54,000, funds are to be encumbered from balance of the WWTP Upgrade Project..

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary for the efficient operation of the Park and Recreation Department of the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 85 - 2003

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT of Ordinance No. 127 - 1997 by repealing Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT, and enacting a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT in the City of Massillon, Ohio, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT of Ordinance No. 127 - 1997 be and is hereby repealed.

Section 2:

That a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - PARK DEPARTMENT of Ordinance No. 127 - 1997 be and is hereby enacted and shall read as follows:

(SEE ATTACHMENT 'A' PAGE 6; AND INSERT IN THE SALARY ORDINANCE 127 - 1997)

Section 3:

That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the community and for the additional reason that the provision hereby enacted is immediately necessary to bring current personnel up to an appropriate rate of pay in the Park Department. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

CLASS GRADE	SCHEDULE	DEPARTMENT & TITLE DESCRIPTION	
		<u>CON'T. RECREATION DEPARTMENT</u>	
	MS	Program Coordinator II	
	MS	Program Coordinator I	
	MS	Security	
	MS	Clerk/Receptionist	
	SE	Laborer-1	
	SE	Laborer-2	
	SE	Laborer-3	
	SE	Laborer-4	
	SE	Laborer-5	
	SE	Laborer-6	
	SE	*Laborer-7	
		<u>PART TIME/TEMPORARY/SEASONAL</u>	
	MS	Custodian	
	MS	Program Coordinator I/Laborer I	
	MS	Program Coordinator II/Laborer II	
	MS	Program Coordinator III/Laborer III	
	MS	Clerk	
	MS	Clerk/Typist	
		<u>SOLID WASTE DEPARTMENT</u>	620
22S	SU UN	Operations Superintendent (Split 1/3)	
17S	SU UN	Collection Department Chief (Split ½)	
15S	SU UN	Collection Department Chief (Split ½)	
15S	SU UN	Collection/Data Center (Split 1/3)	
12S	CL	Collection Clerk Administrator	
11S	CL	Collection Clerk Administrator	
8S	CL	Billing Clerk	
7S	UN	Account Clerk II Typist	
6S	UN	Account Clerk I	
18H	SU CL	Solid Waste Superintendent	
16H	A	Sanitation Group Leader	
14H	A	Refuse Collection Foreman	
12H	A	Truck Driver	
11H	A	Laborer II	
10H	A	Storekeeper (Split ½)	
9H	A	Laborer I	
6H	A	Clerk-Dispatcher I	
3H	A	Clerk-Dispatcher	
1H	A	Temporary Labor	
		<u>PART TIME/TEMPORARY/SEASONAL</u>	
	MS	Clerk	
		<u>WASTEWATER TREATMENT</u>	610 - 615
27S	SU UN	Manager	
22S	SU CL	Operations Superintendent	
22S	SU CL	Maintenance Superintendent	

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

pt heading
LEGISLATIVE DEPARTMENT
passed 7-7

ORDINANCE NO. 86 - 2003

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract agreement with the AFSCME, Ohio Council 8, Local 996 that shall be in effect from April 1, 2003 through March 31, 2006.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Mayor and the Director of Public Service and Safety of the City of Massillon, Ohio, be and hereby are authorized to enter into a contract agreement with the AFSCME, Ohio Council 8, Local 996 and the Wastewater Treatment employees that shall be in effect from April 1, 2003 through March 31, 2006.

Section 2:

That this Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary for the more efficient operation of the various departments in the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 87 - 2003

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for the 2002 Target Neighborhood Street Program improvements in the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to advertise for and receive sealed bids and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for the 2002 Target Neighborhood Street Program in the City of Massillon.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to prepare plans and specifications and to advertise for and receive sealed bids according to law, and to enter into contract upon award and approval by the Board of Control, with the lowest and best bidder for the 2002 Target Neighborhood Street Program in the City of Massillon.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that bids be received so that work may be completed on the 2002 Target Neighborhood Street Program. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATED: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 88-2003

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,612,000 OF TAXABLE NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PROVIDING FUNDS FOR ACQUIRING LAND AND INTERESTS IN LAND AND DEMOLITION RELATING THERETO, FOR THE PURPOSE OF URBAN REDEVELOPMENT IN CONNECTION WITH THE LINCOLN CENTER PHASE III PROJECT, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council (the "Council") of the City of Massillon (the "City") has issued notes dated June 12, 2002, in the amount of One Million Five Hundred Fifty-Nine Thousand Dollars (\$1,559,000) (the "Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Outstanding Notes will mature June 12, 2003; and

WHEREAS it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of bonds and to retire the Outstanding Notes; and

WHEREAS, the City Auditor (the "City Auditor") of the City has certified to the Council of the City (the "Council") that the estimated life of the improvement stated in the title of this ordinance (the "Project") which is to be financed with the proceeds of bonds and notes hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being thirty (30) years and notes being eighteen (18) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds (the "Bonds") of the City in the principal sum of not to exceed \$1,612,000 for the purpose of paying the cost of financing the Project.

Section 2. The Bonds shall be dated prior to the maturity date of the Notes (as defined hereinbelow), shall bear interest at the maximum average annual interest rate presently estimated to be six centum (6.00%) per annum, payable semiannually until the principal sum is paid and shall mature in thirty (30) annual installments.

Section 3. It is necessary to issue and this Council hereby determines that notes shall be issued in anticipation of the issuance of the Bonds and to retire the Outstanding Notes.

Section 4. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$1,612,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the City Auditor and certified to this Council and shall mature on such date as shall be determined by the City Auditor and certified to this Council, provided that such maturity date shall not be later than one year after the date of issuance of the Notes. The City Auditor is authorized and directed to execute a Certificate setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to Council after closing of the Notes.

Section 5. The Notes shall be issued as one fully registered note in book-entry only form in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission. Based upon the foregoing, beneficial interests in the Notes are not to be sold or transferred in principal amounts of less than \$100,000.

Section 6. The Notes shall be the full general obligation of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity, together with interest thereon, and is hereby pledged for such purpose.

Section 7. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Notes are outstanding, in an amount which is sufficient to provide funds to pay interest upon the Notes as and when the same fall due and to provide a fund for the repayment of the principal of the Notes at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 8. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Notes and Bonds when and as the same fall due. Notwithstanding the foregoing, if the City determines that funds will be available from other sources for the payment of the Notes and Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which

will be so available, and the City shall appropriate such funds to the payment of the Notes and Bonds in accordance with law.

Section 9. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the City Auditor and certified to this Council, provided that such rate shall not exceed five per centum (5.00%) per annum. The Notes shall be, and hereby are, awarded and sold to Fifth Third Securities, Inc., Columbus, Ohio (the "Original Purchaser") at the par value thereof, and the City Auditor of this Council is hereby authorized and directed to deliver the Notes, when executed, to said purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery.

The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose. Any accrued interest or premium on the Notes shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Notes, and other outstanding obligations of the City, in the manner provided by law.

Section 10. The Notes shall be executed by the City Auditor and the Mayor, provided that either or both of such signatures may be a facsimile. The Notes shall be designated "City of Massillon, Stark County, Ohio Lincoln Center Phase III Land Acquisition Taxable Notes," or as otherwise designated by the City Auditor, and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance. No Note shall be valid or become obligatory for any purpose of shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar (as defined in this ordinance) as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 11. The City hereby covenants, pursuant to Section 133.05(B)(7), Ohio Revised Code, to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes adequate to produce, amounts necessary to meet the debt charges of the Notes and the Bonds in each year until full payment is made.

Section 12. Fifth Third Bank, is hereby appointed to act as the authenticating agent, note registrar, transfer agent and paying agent (collectively, the "Note Registrar") for the Notes. So long as any of the Notes remain outstanding, the City will cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). The person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Note, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a

power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of the Note Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under the Note Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 13. For purposes of the Note Ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book entry and (ii) physical Notes in fully registered form are issued only to a depository or its nominee as registered owner, with the Notes "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Notes and to effect transfers of Notes, in book entry form.

The Notes will be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of the Note Ordinance; (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in the Note Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in the Note Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, the Note Ordinance.

The Clerk of the City is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, if requested, a letter agreement among the City, the Note Registrar and The Depository Trust Company, to be delivered in connection with the issuance of the Notes to the Depository for use in a book entry system in substantially the form submitted to the City.

If any Depository determines not to continue to act as a depository for the Notes for use in a book entry system, the City and the Note Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under the Note Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 14. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 15. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 16. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 17. The Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Stark County, Ohio.

Section 18. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 2nd day of June, 2003.

Effective this 2nd day of June, 2003.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____-2003 duly adopted by the Council of the City of Massillon, Ohio on June 2, 2003, and that a true copy thereof was certified to the County Auditor of Stark County, Ohio, on June __, 2003.

Clerk
City of Massillon, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION NOTES

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. ____-2003 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on June 2, 2003, providing for the issuance of general obligation notes designated City of Massillon, Stark County, Ohio Lincoln Center Phase III Land Acquisition Taxable Notes in the aggregate amount of not to exceed \$1,612,000 was filed in this office on June __, 2003.

WITNESS my hand and official seal at Canton, Ohio this ____ day of June, 2003.

[SEAL]

County Auditor
Stark County, Ohio

DATED: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 89-2003

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,303,000 OF TAX-EXEMPT NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PROVIDING FUNDS FOR ACQUIRING LAND AND INTERESTS IN LAND AND DEMOLITION RELATING THERETO, FOR THE PURPOSE OF URBAN REDEVELOPMENT IN CONNECTION WITH THE LINCOLN CENTER PHASE III PROJECT, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council (the "Council") of the City of Massillon (the "City") has issued notes dated June 12, 2002, in the amount of One Million Two Hundred Seventy-One Thousand Dollars (\$1,271,000) (the "Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Outstanding Notes will mature June 12, 2003; and

WHEREAS it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of bonds and to retire the Outstanding Notes; and

WHEREAS, the City Auditor (the "City Auditor") of the City has certified to the Council of the City (the "Council") that the estimated life of the improvement stated in the title of this ordinance (the "Project") which is to be financed with the proceeds of bonds and notes hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being thirty (30) years and notes being eighteen (18) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds (the "Bonds") of the City in the principal sum of not to exceed \$1,303,000 for the purpose of paying the cost of financing the Project.

Section 2. The Bonds shall be dated prior to the maturity date of the Notes (as defined hereinbelow), shall bear interest at the maximum average annual interest rate presently estimated to be six centum (6.00%) per annum, payable semiannually until the principal sum is paid and shall mature in thirty (30) annual installments.

Section 3. It is necessary to issue and this Council hereby determines that notes shall be issued in anticipation of the issuance of the Bonds and to retire the Outstanding Notes.

Section 4. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$1,303,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the City Auditor and certified to this Council and shall mature on such date as shall be determined by the City Auditor and certified to this Council, provided that such maturity date shall not be later than one year after the date of issuance of the Notes. The City Auditor is authorized and directed to execute a Certificate setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to Council after closing of the Notes.

Section 5. The Notes shall be issued as one fully registered note in book-entry only form in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission. Based upon the foregoing, beneficial interests in the Notes are not to be sold or transferred in principal amounts of less than \$100,000.

Section 6. The Notes shall be the full general obligation of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity, together with interest thereon, and is hereby pledged for such purpose.

Section 7. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Notes are outstanding, in an amount which is sufficient to provide funds to pay interest upon the Notes as and when the same fall due and to provide a fund for the repayment of the principal of the Notes at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 8. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Notes and Bonds when and as the same fall due. Notwithstanding the foregoing, if the City determines that funds will be available from other sources for the payment of the Notes and Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which

will be so available, and the City shall appropriate such funds to the payment of the Notes and Bonds in accordance with law.

Section 9. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the City Auditor and certified to this Council, provided that such rate shall not exceed five per centum (5.00%) per annum. The Notes shall be, and hereby are, awarded and sold to Fifth Third Securities, Inc., Columbus, Ohio (the "Original Purchaser") at the par value thereof, and the City Auditor of this Council is hereby authorized and directed to deliver the Notes, when executed, to said purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery.

The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose. Any accrued interest or premium on the Notes shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Notes, and other outstanding obligations of the City, in the manner provided by law.

Section 10. The Notes shall be executed by the City Auditor and the Mayor, provided that either or both of such signatures may be a facsimile. The Notes shall be designated "City of Massillon, Stark County, Ohio Lincoln Center Phase III Land Acquisition Tax-Exempt Notes," or as otherwise designated by the City Auditor, and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance. No Note shall be valid or become obligatory for any purpose of shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar (as defined in this ordinance) as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 11. The City hereby covenants, pursuant to Section 133.05(B)(7), Ohio Revised Code, to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes adequate to produce, amounts necessary to meet the debt charges of the Notes and the Bonds in each year until full payment is made.

Section 12. Fifth Third Bank, is hereby appointed to act as the authenticating agent, note registrar, transfer agent and paying agent (collectively, the "Note Registrar") for the Notes. So long as any of the Notes remain outstanding, the City will cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). The person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Note, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a

power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of the Note Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under the Note Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 13. For purposes of the Note Ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book entry and (ii) physical Notes in fully registered form are issued only to a depository or its nominee as registered owner, with the Notes "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Notes and to effect transfers of Notes, in book entry form.

The Notes will be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of the Note Ordinance; (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in the Note Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in the Note Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, the Note Ordinance.

The Clerk of the City is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, if requested, a letter agreement among the City, the Note Registrar and The Depository Trust Company, to be delivered in connection with the issuance of the Notes to the Depository for use in a book entry system in substantially the form submitted to the City.

If any Depository determines not to continue to act as a depository for the Notes for use in a book entry system, the City and the Note Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under the Note Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 14. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of

interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 15. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 16. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 18. The Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Stark County, Ohio.

Section 19. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 2nd day of June, 2003.

Effective this 2nd day of June, 2003.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____ - 2003 duly adopted by the Council of the City of Massillon, Ohio on June 2, 2003, and that a true copy thereof was certified to the County Auditor of Stark County, Ohio, on June __, 2003.

Clerk
City of Massillon, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION NOTES

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. ____-2003 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on June 2, 2003, providing for the issuance of general obligation notes designated City of Massillon, Stark County, Ohio Lincoln Center Phase III Land Acquisition Tax-Exempt Notes in the aggregate amount of not to exceed \$1,303,000 was filed in this office on June __, 2003.

WITNESS my hand and official seal at Canton, Ohio this ____ day of June, 2003.

[SEAL]

County Auditor
Stark County, Ohio

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 90 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE amending Ordinance No. 143 - 1976 by repealing Section 13 - "ALLOCATION OF FUNDS - INCOME TAX" and enacting a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" and repealing Ordinance No. 215 - 2002, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Ordinance No. 215 - 2002 be and is hereby repealed.

Section 2:

That there be and hereby is enacted a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" of Ordinance No. 143 - 1976. Said new Section 13 shall read as follows:

Section 13 - ALLOCATION OF FUNDS

- (A) Effective June 1, 2003 through December 31, 2003 the funds collected under the provision of this ordinance shall be disbursed as follows:
 - (1) Ninety-Eight (98) percent shall be deposited in the General Fund and Two (2) percent shall be deposited in said "Income Tax Capital Improvements" Fund and shall be used for capital improvements to defray operating expenses of the City including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.
- (B) Effective January 1, 2004 the funds collected under the provisions of this ordinance shall be disbursed as follows:
 - (1) Ninety-Five (95) percent shall be deposited in the General Fund and shall be used to defray operating expenses of the city including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 90 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE amending Ordinance No. 143 - 1976 by repealing Section 13 - "ALLOCATION OF FUNDS - INCOME TAX" and enacting a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" and repealing Ordinance No. 215 - 2002, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Ordinance No. 215 - 2002 be and is hereby repealed.

Section 2:

That there be and hereby is enacted a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" of Ordinance No. 143 - 1976. Said new Section 13 shall read as follows:

Section 13 - ALLOCATION OF FUNDS

- (A) Effective June 1, 2003 through December 31, 2003 the funds collected under the provision of this ordinance shall be disbursed as follows:
 - (1) One Hundred (100) percent shall be deposited in the General Fund and shall be used to defray operating expenses of the City including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.
- (B) Effective January 1, 2004 the funds collected under the provisions of this ordinance shall be disbursed as follows:
 - (1) Ninety-Five (95) percent shall be deposited in the General Fund and shall be used to defray operating expenses of the city including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.

- (2) There is hereby created a separate fund entitled "Income Tax Capital Improvement Fund". Five (5) percent shall be deposited in said "Income Tax Capital Improvements" and shall be used for capital improvements.
- (3) Capital Improvements are all property, assets, machinery, equipment or improvements which the City is authorized by law to acquire, construct and maintain, including plans and studies thereof with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extension thereof having an estimated life or usefulness of five (5) years or more provided, however, that the purchase of motorized equipment for the various city departments and the resurfacing and resealing of public streets, including "Chip and Seal" method, shall be deemed Capital Improvement without regard to estimated life or usefulness.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety and the emergency being the necessity of providing funds for the operation of necessary governmental functions imposed by law, including the proper police and fire protection, but not limited thereto, for, without said funds, said governmental functions would have to be curtailed to such an extent that the public safety and welfare would be greatly jeopardized. And provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 91 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the processing of the documents for USEPA, for the City to receive a \$9,000,000.00 Grant from USEPA, to assist with the Lincoln Centre III storm sewer rehab, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to receive the \$900,000.00 Grant from USEPA to assist with the Lincoln Centre III storm sewer rehab.

Section 2:

The Council of the City of Massillon, Ohio, is hereby authorized and directed to receive the Grant Funds from USEPA for the Lincoln Centre III storm sewer rehab.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that the grant is necessary for the Lincoln Centre III storm sewer rehab. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 92 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the State Highway M & R Fund, Wastewater Treatment BR Fund, and the General Fund, for the year ending December 31, 2003, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the State Highway M & R Fund for the year ending December 31, 2003, the following:

\$ 8,588.00 to an account entitled "Supplies" 1202.420.2410

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Wastewater Treatment BR Fund for the year ending December 31, 2003, the following:

\$ 3,500.00 to an account entitled "Services/Contracts" 1305.940.2393

Section 3:

There be and hereby is appropriated from the unappropriated balance of the General Fund for the year ending December 31, 2003, the following:

\$ 3,400.00 to an account entitled "Supplies/Materials/Postage" 1100.325.2410

\$ 2,250.00 to an account entitled "Supplies/Materials/Postage" 1100.405.2410

Section 4:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JUNE 2, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 18 - 2003

BY: THE STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

TITLE: AN RESOLUTION designating Macmillan Place SE as the name for a certain alley located in the City of Massillon, Ohio, and described as an alley 23 feet wide running from Wellman Avenue SE to Wallace Avenue SE, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Macmillan Place SE be and is hereby designated as the name for a certain alley located in the City of Massillon, Ohio, and running from Wellman Avenue SE to Wallace Avenue SE.

Section 2:

Upon payment of the cost of the signage by David Macmillan in the amount of \$230.36 to the City of Massillon, the Director of Public Service and Safety is authorized and directed to order and post appropriate signs on said street giving notice of said name designation.

Section 3:

That the Traffic Control Map is hereby amended to show said name designation.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR